

## Article - Health - General

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§4-211.

(a) Except as provided in subsection (d) of this section, the Secretary shall make a new certificate of birth for an individual if the Department receives satisfactory proof that:

(1) The individual was born in this State; and

(2) Regardless of the location, one of the following has occurred:

(i) The previously unwed parents of the individual have married each other after the birth of the individual;

(ii) A court of competent jurisdiction has entered an order as to the parentage, legitimation, or adoption of the individual; or

(iii) If a parent who did not give birth to the individual is not named on an earlier certificate of birth:

1. The parent who did not give birth to the individual has acknowledged himself or herself by affidavit to be a parent of the individual; and

2. The mother of the individual has consented by affidavit to the acknowledgment.

(b) Except as provided in subsection (d) of this section, the Secretary shall make a new certificate of birth for an individual if the Department receives satisfactory proof that:

(1) The individual was born in this State; and

(2) Regardless of the location, one of the following has occurred:

(i) 1. A licensed health care practitioner who has treated or evaluated the individual has determined that the individual's sex designation should be changed because the individual has undergone treatment appropriate for the purpose of sex transition or has been diagnosed with an intersex condition;

2. The individual, or if the individual is a minor or disabled person under guardianship, the individual's parent, guardian, or legal

representative, has made a written request for a new certificate of birth with a sex designation that differs from the sex designated on the original certificate of birth; and

3. The licensed health care practitioner has signed a statement, under penalty of perjury, that:

A. The individual has undergone surgical, hormonal, or other treatment appropriate for the individual, based on generally accepted medical standards; or

B. The individual has an intersex condition and, in the professional opinion of the licensed health care practitioner, based on generally accepted medical standards, the individual's sex designation should be changed accordingly;

(ii) A court of competent jurisdiction has issued an order indicating that the sex of an individual born in this State has been changed; or

(iii) Before October 1, 2015, the Secretary, as provided under regulations adopted by the Department, amended an original certificate of birth on receipt of a certified copy of an order of a court of competent jurisdiction indicating the sex of the individual had been changed.

(c) Except as provided in subsection (d) of this section, the Secretary may make a new certificate of birth for an individual who was born outside the United States if one of the following occurred in this State:

(1) The previously unwed parents of the individual have married each other after the birth of the individual;

(2) A court of competent jurisdiction in this State has entered an order as to parentage or legitimation; or

(3) The parent who did not give birth to the individual acknowledged himself or herself by affidavit to be a parent of the individual and the mother of the individual has consented by affidavit to the acknowledgment.

(d) The Secretary may not make a new certificate of birth in connection with an order of a court of competent jurisdiction relating to the adoption of an individual, if one of the following so directs the Secretary:

(1) The court that decrees the adoption.

(2) The adoptive parents.

(3) The adopted individual, if an adult.

(e) A new certificate of birth shall be prepared on the following basis:

(1) The individual shall be treated as having at birth the status that later is acquired or established and of which proof is submitted.

(2) (i) If the parents of the individual were not married and parentage is established by legal proceedings, the name of the parent who did not give birth to the individual shall be inserted.

(ii) The legal proceeding should request and report to the Secretary that the surname of the subject of the record be changed from that shown on the original certificate, if a change is desired.

(3) If the individual is adopted, the name of the individual shall be that set by the decree of adoption, and the adoptive parents shall be recorded as the parents of the individual.

(4) The new certificate of birth shall contain wording that requires each parent shown on the new certificate to indicate his or her own Social Security number.

(f) (1) When a new certificate of birth is made under subsection (b) of this section:

(i) The sex designation of the individual on the new certificate of birth shall be the sex designation for which satisfactory proof has been submitted in accordance with subsection (b) of this section; and

(ii) If the name of the individual has been changed at any time, the name of the individual on the new certificate of birth shall be the name that was last established and for which appropriate documentation has been submitted to the Department.

(2) A new certificate of birth made under subsection (b) of this section may not:

(i) Be marked “amended”; or

(ii) Show on its face that a change has been made to:

1. A sex designation; or
2. If applicable, a change of name.

(g) (1) If a new certificate of birth is made, the Secretary shall:

(i) Substitute the new certificate of birth for any certificate then on file; and

(ii) Place the original certificate of birth and all records that relate to the new certificate of birth under seal.

(2) The seal may be broken only:

(i) On order of a court of competent jurisdiction;

(ii) If it does not violate the confidentiality of the record, on written order of a designee of the Secretary; or

(iii) In accordance with Title 5, Subtitle 3A or Subtitle 4B of the Family Law Article.

(3) A certified copy of the certificate of birth that later is issued shall be a copy of the new certificate of birth, unless:

(i) A court of competent jurisdiction orders the issuance of a copy of the original certificate of birth; or

(ii) Title 5, Subtitle 3A or Subtitle 4B of the Family Law Article provides for the issuance of a copy of the original certificate of birth.

(h) Each clerk of court shall send to the Secretary, on the form that the Secretary provides, a report of:

(1) Each decree of adoption;

(2) Each adjudication of parentage, including the parent's Social Security number; and

(3) Each revocation or amendment of any decree of adoption or adjudication of paternity that the court enters.

(i) Upon receipt of a report or decree of annulment of adoption, the original certificate of birth shall be restored to its place in the files, and the adoption certificate

and any accompanying documents are not subject to inspection except upon order of a court of competent jurisdiction or as provided by regulation.

(j) If no certificate of birth is on file for the person for whom a new birth certificate is to be established under this section, and the date and place of birth have not been determined in the adoption or paternity proceedings:

(1) A delayed certificate of birth shall be filed with the Secretary as provided in § 4-210 of this subtitle before a new certificate of birth is established; and

(2) The new birth certificate shall be prepared on the delayed birth certificate form.

(k) (1) The Secretary shall, on request, prepare and register a certificate in this State for an individual born in a foreign country and who was adopted:

(i) Through a court of competent jurisdiction in this State; or

(ii) 1. Under the laws of a jurisdiction or country other than the United States and has been granted an IR-3 or IH-3 visa by the United States Immigration and Naturalization Service under the Immigration and Nationality Act; and

2. By an adopting parent who is a resident of this State.

(2) Except as provided in paragraph (3) of this subsection, the certificate shall be established on receipt of:

(i) A certificate of adoption from the court decreeing the adoption;

(ii) Proof of the date and place of the child's birth; and

(iii) A request from the court, the adopting parents, or the adopted person if 18 years of age or over that the certificate be prepared.

(3) If the child was adopted under the laws of a jurisdiction or country other than the United States and has been granted an IR-3 or IH-3 visa by the United States Immigration and Naturalization Service under the Immigration and Nationality Act, the certificate shall be established on receipt of:

(i) An official copy of the decree from the jurisdiction or country in which the child was adopted;

- (ii) A certified translation of the foreign adoption decree;
  - (iii) Proof of the date and place of the child's birth;
  - (iv) Proof of IR-3 or IH-3 visa status;
  - (v) A request from the court, the adopting parents, or the adopted person if 18 years of age or over that the certificate be prepared; and
  - (vi) Proof that the adopting parent is a resident of this State.
- (4) The certificate shall be labeled "Certificate of Foreign Birth" and shall show the actual country of birth.
- (5) A statement shall also be included on the certificate indicating that it is not evidence of United States citizenship for the child for whom it is issued.

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